

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ERICKSON PRODUCTIONS, INC. and
JIM ERICKSON,

Plaintiffs,

v.

KRAIG R. KAST,

Defendant.

Case No. 5:13-cv-05472 HRL

**ORDER RE PLAINTIFFS' AND
DEFENDANT'S MOTIONS FOR
SUMMARY JUDGMENT AND
RELATED MOTIONS**

[Re: Dkt. 51, 54, 58, 62, 66]

The parties have each filed motions for summary judgment that are procedurally improper. The court set October 7, 2014 as the last day to hear any dispositive motions. (Dkt. 44). Accordingly, the last day to file dispositive motions was September 2, 2014. Although plaintiffs' motion timely was filed, they initially noticed their motion for an October 14, 2014 hearing. They subsequently "re-noticed" their motion for an October 7 hearing, but on less than 35 days notice. Civ. L.R. 7-2(a). As for defendant, his motion was filed nearly one week too late. Finding no good cause, the court denies his motion for an order shortening time. Plaintiffs' request for its fees incurred in connection with that motion is denied.

The court nevertheless has read the parties' respective papers.¹ With respect to plaintiffs'

¹ Defendant's objections to the Hughes declaration are overruled, and plaintiffs' motion for leave to file the substituted and signed Hughes declaration is granted. Defendant's objection to the purported Only Websites "call log" appended to the McCulloch declaration is sustained. Fed. R. Evid. 901. Defendant's objections to the other exhibits appended to the McCulloch declaration are

1 infringement claims, the court sees no need for oral argument, Civ. L.R. 7-1(b), and concludes that
2 there are genuine issues of material fact that preclude summary judgment. Plaintiffs' motion as
3 pertains to those claims is denied, and so is defendant's.

4 The court will, however, hear oral argument as to plaintiffs' motion for summary judgment
5 re Kast's fair use defense. The October 7 hearing remains on calendar solely for that purpose.
6 Plaintiffs' counsel's motion for leave to appear at the hearing via CourtCall is granted.

7 **SO ORDERED.**

8 Dated: October 3, 2014

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11 HOWARD R. LLOYD
12 UNITED STATES MAGISTRATE JUDGE
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27 overruled. Documents produced by a party in discovery may be deemed authentic when offered
28 by the party-opponent. Orr v. Bank of America, 285 F.3d 764, 777 n.20 (9th Cir. 2002) (citing
Maljack Prods., Inc. v. GoodTimes Home Video Corp., 81 F.3d 881, 889 n.12 (9th Cir. 1996)).

5:13-cv-05472-HRL Notice has been electronically mailed to:

Kevin P McCulloch kmcculloch@nelsonmcculloch.com, holland@nmiplaw.com,
layala@nmiplaw.com

Paul William Reidl reidl@sbcglobal.net

Robert K Wright rkwlaw@earthlink.net